LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7316 **NOTE PREPARED:** Jan 17, 2004
BILL NUMBER: HB 1333 **BILL AMENDED:**

SUBJECT: Economic development.

FIRST AUTHOR: Rep. Espich **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: The bill establishes the Entrepreneurial Loan Guarantee Review Board. The bill authorizes the Board to direct the Board for Depositories to enter into loan guarantees under certain conditions. The bill also provides an Income Tax credit for capital losses realized from an investment in a qualified Indiana business.

Effective Date: July 1, 2004; January 1, 2005.

Explanation of State Expenditures: *Loan Guarantee Provisions:* The bill would allow the Public Deposit Insurance Fund (PDIF) to be used to guarantee loans to provide working capital, equipment, or facilities for new businesses or business expansions in Indiana. However, the PDIF could not be used for loan guarantees unless federal law is amended so that deposits of public monies are insured by the FDIC. The bill also specifies various other requirements relating to borrowers and to the amount of the loan guarantee that would have to be met for a loan guarantee to be made. The loan guarantee would be entered into by the Board for Depositories upon the determination of the Entrepreneurial Loan Guarantee Review Board established by the bill (see background discussion below).

The PDIF was created in 1937 to insure the deposits of public monies in Indiana financial institutions. PDIF is administered by the Indiana Board for Depositories. The purpose of the Board is to insure the safekeeping and prompt payment of all public funds deposited in any approved depository. The PDIF is funded by assessments payable by every depository that has public funds. The expenses of the Board are paid from the PDIF. The FY 2003 ending balance in the PDIF totaled approximately $306.9 M.

Background: The bill establishes the Entrepreneurial Loan Guarantee Review Board consisting of 3 to 9 members, as determined by the Governor, Treasurer of State, and the Chairperson of the Indiana Economic Development Corporation. The bill provides that each of these officials appoint an equal number of members to the Review Board. A person is eligible to serve on the Review Board provided he or she is a board member, officer, or employee of a financial institution as defined under the bill; or a depositor in a financial institution meeting certain deposit criteria. Under the bill, the members and officers of the Review Board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

The bill authorizes the Review Board to direct the Board for Depositories to enter into loan guarantees meeting criteria specified by the bill, provided federal law is amended so that deposits of public monies are insured by the FDIC. The bill requires a loan guarantee recipient to pay a loan guarantee premium to the PDIF of up to 2% of the outstanding principal obligation. The bill also provides that any claim, loss, or debt from a loan guarantee is the obligation of the Board for Depositories payable from the PDIF and does not constitute an obligation of the state.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the capital loss tax credit. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: The bill establishes a tax credit for losses incurred by taxpayers for investment in an Indiana business that is qualified for creditable investment under the existing Venture Capital Investment Tax Credit. The bill could potentially reduce revenue from the Adjusted Gross Income (AGI) Tax, the Insurance Premiums Tax, and the Financial Institutions Tax by an indeterminable amount. The extent of the revenue loss would depend upon the number of qualified Indiana businesses certified by the Indiana Department of Commerce (IDOC); and the extent of investment in these businesses that results in capital losses. The fiscal impact of this credit could potentially begin in FY 2005, if taxpayers adjust their quarterly estimated payments.

Background: Under the bill, an individual or corporate taxpayer is entitled to a non-refundable tax credit equal to 20% of the amount of capital losses realized on an investment in an Indiana business that is qualified for creditable investment under the existing Venture Capital Investment Tax Credit. (See definition of a "qualified Indiana business" below.) However, the taxpayer is required to add back to federal Adjusted Gross Income (for an individual taxpayer) or federal Taxable Income (for a corporate taxpayer) the amount of capital losses claimed as a credit. The credit is allowed against a qualified employer's AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liability. If the amount of the credit exceeds the qualified employer's tax liability, the excess credit may be carried over to subsequent years. The excess credit is not refundable, nor is the employer entitled to a carryback. If a qualified employer is a pass through entity and does not have a tax liability, the credit could be taken by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity.

Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. The revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). The tax credit is effective beginning in tax year 2005.

Qualified Indiana Business: A "qualified Indiana business" is an independently owned and operated business certified by the IDOC as meeting the following criteria:

(1) it is headquartered in Indiana;

(2) it is primarily focused on commercialization of research and development, technology transfers, or the application of new technology, or is determined by the IDOC to have significant potential to: (a) bring substantial capital into Indiana; (b) create jobs; (c) diversify the business base of Indiana; or (d) significantly promote venture capital investment;

(3) it has had average annual revenues of less than ten million dollars ($10,000,000) in the two (2) years preceding the year in which the business received qualified investment capital from a taxpayer claiming a credit under this chapter;

(4) it has at least 50% of its employees residing in Indiana; or at least 75% of its assets located in Indiana; and

(5) it is not engaged in a business involving real estate; real estate development; insurance; professional services provided by an accountant, a lawyer, or a physician; retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or oil and gas exploration.

Explanation of Local Expenditures:

Explanation of Local Revenues: Because individual taxpayers claiming the capital loss tax credit would have to add back those capital losses to federal Adjusted Gross Income, Taxable Income would increase. Thus, counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) may, as a result, experience an indeterminable increase in revenue from these taxes.

State Agencies Affected: Department of State Revenue, Indiana Department of Commerce.

Local Agencies Affected: Counties with a local option income tax.

Information Sources: *Annual Report of the Treasurer of State*, FY 2003.

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